**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO.09 OF 2007**
**IN**
**ARBITRATION PETITION NO.424 OF 2006**

Union of India ...Petitioner

Versus

Tolani Bulk Carriers ...Respondents

Ms Shah i/by Dr. T.C. Kaushik for the Petitioner.
Shri Kunal Shah i/by M/s.Bhatt & Saldhanha for the Respondents.

**CORAM : ABHAY S.OKA, J.**
**DATED : JULY 26, 2007.**

**P.C.:**

1. This Notice of Motion is taken out by the Petitioner in Arbitration Petition No.424 of 2006. On 05th December, 2006 the Arbitration Petition was dismissed for default as none appeared for the Petitioner.

2. In affidavit in support of Notice of Motion it is stated that the Arbitration Petition was called out on 05th December, 2006 at about 01.10 p.m. After the arguments were heard for the some time, the Arbitration Petition was kept back to enable the counsel for the Petitioner to take instructions regarding date of receipt of Award dated 10/16th March, 2007 by the Petitioner. According to the case made out in the

affidavit, it is stated that even before 03.00 p.m, the matter was dismissed for default. It is stated in paragraph No.9 that the concerned Court was moved by the counsel for the Petitioner on the same day.

3. The counsel for the Respondents has opposed the prayer for restoration by pointing out that the facts stated in the affidavit in support are not true and correct. It is contended that no case is made out for restoration.

4. After having considered the submissions and the averments made in the affidavit in support of the Notice of Motion, I find that a case is made out for restoration of Arbitration Petition. Accordingly, Notice of Motion is made absolute in terms of prayer clause (a). Place the Arbitration Petition for admission on 03rd August, 2007.

**JUDGE**